



**Office of the City Auditor**

**Compliance with Federal Requirements for Employers  
of Commercial Vehicle Operators  
Report No. 0161C**

**September 13, 2002**

The City Auditor's Office found that the City is not in compliance with federal requirements imposed on employers of individuals with a Commercial Driver's License. The lack of clearly defined policies and procedures, responsibilities, and processes has contributed to the noncompliance. Human Resources and Risk Management are currently coordinating their efforts to remedy this situation.

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September 13, 2002

To the Most Honorable Mary Manross, Mayor  
and Members of the Scottsdale City Council

This report serves to transmit issues identified during the completion of an audit on the controls over the acquisition and use of light duty passenger vehicles and trucks. The scope is limited to addressing compliance with federal regulations governing the operation of commercial vehicles.

While completing this work, however, we identified two ancillary issues that we believe need to be addressed. The first issue deals with the City's *Substance Abuse Policy* and the procedures associated with the provision for "reasonable suspicion" testing. The second deals with the need to maintain appropriate security over confidential information.

**City Needs to Document the Reasonable Suspicion-Testing Program**  
According to the City's *Substance Abuse Policy*, the City adheres to a reasonable suspicion-testing program.

*When reasonable suspicion exists, based upon observation, information or performance, that an employee is, has, or may violate the substance abuse policy; the employee is required to submit to a test to determine whether an illegal drug, controlled substance, or alcohol (individually or collectively "Required Test") has been used by the employee.*

SOURCE: City of Scottsdale Substance Abuse Policy.

However, there is no documentation, either in print or on the City's Intranet site that outlines the program.

Moreover, there is no assurance that employees have requisite knowledge to recognize symptoms of alcohol misuse and controlled substances abuse. HR does not offer training nor is there a requirement for supervisors and managers to maintain a basic level of knowledge. According to HR staff, there are tapes available should a supervisor desire to check out and view the information, but the training is not required.

The implementation and administration of a reasonable suspicion testing program requires the highest level of oversight and thoroughly documented procedures to adequately protect both the City's rights as well as those of the employee. Administering a program such as this without thoroughly documented policies and procedures opens the City to allegations that the program was used inappropriately. Without clear guidance addressing the need to keep the information regarding the allegation and the test results confidential, there is little assurance that the information will not be improperly disclosed.

**City Needs to Develop a Privacy Statement and Appropriate Procedures to Maintain Confidential Information**

The City has an Ordinance (SRC §14-9) that states that information, if contained in an employee's personnel file, shall be considered private, confidential, or both. However, there is no other guidance such as an Administrative Regulation (previously known as Administrative Guideline) that outlines the steps that will be taken to avoid disclosure of the information.

The City does not prohibit the disclosure of an employee's social security number. It is routinely used as an identification number on forms that are forwarded to other individuals for review or signature. Often, copies of these forms, as well as other records listing employee social security numbers, are maintained in unlocked files.

Similarly, as will be discussed in the report body, access to medical records is not sufficiently controlled. There is no requirement for documentation, received as a result of a pre-employment physical or drug test, to be stamped "confidential" nor is there guidance that would prohibit the distribution of the documents outside the confines of HR. Moreover, employees who have access to the information are not required to sign a confidentiality statement.

Financial Services and HR are taking steps to address the disclosure of an employee's social security number. For example, planning is underway to implement a separate identification number at the start of 2003, and HR has started an inventory of records. This is a good start but efforts will

need to be expanded to ensure the use of prudent controls designed to prevent the dissemination of sensitive information such as social security numbers and medical records, whether the individual is a current employee, contract employee, volunteer, or simply a candidate for employment.

We recommend that the City Council instruct the City Manager to:

1. Develop and document the “reasonable suspicion” testing program discussed in the City’s substance abuse policy.
2. Develop a Privacy Statement and Citywide privacy policy that outlines how the City will avoid disclosure of an individual’s social security number, medical records, or other sensitive information. The Privacy Statement should be incorporated into appropriate HR documents such as the application and insurance enrollment forms. The privacy policy should require actions such as stamping documents “confidential,” maintaining the records in locked files, and redaction or obfuscation of private information if a document must be distributed. As well, the policy should require that access to this information be limited to a “need to know” basis. Employees granted access should be required to sign a confidentiality statement.
3. Revise the employment process to ensure that only information such as name, address, eligibility for employment, and qualifications is captured prior to hire. Information such as social security number should be obtained once a hiring decision has been made.

If you need additional information or have any questions, please contact me at 480-312-7756.

Respectfully submitted,

A handwritten signature in dark ink, reading "Cheryl Lee Barcala". The signature is fluid and cursive, with the first name "Cheryl" being more prominent.

Cheryl Barcala, CPA, CIA, CFE, CGFM, CISA, CISSP  
City Auditor

## Table of Contents

EXECUTIVE SUMMARY .....	1
Results in Brief .....	1
Action Plan .....	4
BACKGROUND .....	13
City Needs to Ensure Compliance with Federal Requirements .....	17
A More Thorough Review of Qualifications Needs to Be Undertaken Prior to Hire or Promotion .....	17
List of Positions Would Facilitate Review of Qualifications .....	18
A Comprehensive Application or Supplement Would Increase Compliance .....	18
A Sufficient, Complete Background Investigation Needs to Be Undertaken .....	20
Risk Management Needs to Review the Driving Record Prior to Hire or Promotion .....	21
An Independent Review of Qualifications Needs to Be Completed Prior to Hire or Promotion.....	21
Appropriate Documentation Needs to Be Maintained .....	22
City Needs to Ensure that Drivers Continue to Be Qualified .....	23
City Needs to Establish Responsibility for the Annual Review of Driving Records and Employee Certification.....	23
City Needs to Re-Evaluate Decision to Obtain Driving Record Every Six Months.....	25
City Needs to Sufficiently Educate Employees Who Have a Commercial Driver's License to Ensure Compliance with Requirements .....	25
City Appears to Be in Compliance with Requirement for Completing Medical Examinations at Least Every Two Years.....	26
City Needs to Implement Sufficient Procedures to Ensure Compliance with Federal Requirements Related to the Misuse of Alcohol and Use of Controlled Substances in the Workplace.....	27
Human Resources Needs to Develop a Substance Abuse Policy that Meets or Exceeds the Requirements.....	28
Human Resources Needs to Comply with Requirements to Obtain Information Regarding Prior Test Results.....	29
Procedures Need to Be Developed to Ensure that Employees are Tested Prior to Performing Safety-Sensitive Functions .....	30
Human Resources Needs to Develop a Random Testing Program that Meets the Intent of the Regulations .....	30
City Needs to Provide Appropriate Notice to Employees .....	31
City Needs to Develop and Maintain an Accurate List of Employees with CDLs .....	31

City Needs to Maintain Documentation of Alcohol and Controlled Substances Process .....	31
Testing for Alcohol Misuse Needs to Comply with Federal Requirements.....	32
Testing for Controlled Substances Use Needs to Comply with Federal Requirements.....	32
Procedures Need to Be Developed to Ensure that Post-Accident Testing is Completed.....	33
Substance Abuse Training Program Needs to Be Implemented.....	33
Records Need to Be Maintained in a Secure Manner with Controlled Access .....	34
OBJECTIVE, SCOPE, AND METHODOLOGY .....	35
Survey Tests .....	36
Fieldwork Tests .....	39
APPENDIX A MANAGEMENT RESPONSE.....	47
APPENDIX B MANAGEMENT RESPONSE.....	48

## **EXECUTIVE SUMMARY**

In September 2001, the City Auditor's Office initiated an audit of the controls over the acquisition and use of light duty passenger vehicles and trucks. One of the objectives of the audit was to evaluate compliance with federal and state statutes.

To complete this work, we looked at federal requirements outlined in the Code of Federal Regulations, Title 49, Chapter III, Parts 382, 383, 390, and 391. These regulations are promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) in an effort to reduce or prevent accidents, injuries, and fatalities associated with the operation of commercial vehicles. This report is limited to issues related to these regulations.

Ramon Ramirez, Auditor-In-Charge, Stella Fusaro, and Eric Spivak completed the project. Audit work was conducted in accordance with generally accepted government auditing standards as they relate to expanded scope auditing as required by Article III, Scottsdale Revised Code §2-117 *et seq.*

### **Results in Brief**

We found that the City is not in compliance with requirements set out in the Code of Federal Regulations, Title 49 (49CFR). We believe several factors contributed to this. First, responsibility for compliance has not been set. As currently structured, functions are spread between Human Resources (HR) and Risk Management (Risk). There is no coordination between these areas. Adding to the confusion is the fact that a Water Resources staff member serves as the custodian of the driver qualification files.

Second, individuals assigned responsibilities such as reviewing records or conducting required tests have not received sufficient training to be able to effectively carry out their assigned duties. Moreover, we found no indication that supervisors (specifically supervisors who were sufficiently aware of the requirements) periodically reviewed the work performed in order to identify areas needing improvement.

Third, there are no written policies and procedures documenting the duties that are necessary to comply with federal regulations. As such, there is no assurance that duties are carried out consistently. Moreover, it would be difficult to transition the duties to someone else should the need arise.

Fourth, the City undertakes more review of driving records and random alcohol and controlled substances testing than required to comply with federal

regulations. As a result, it appears that duties are not structured to be cost effective.

Fifth, maintenance of records is not centralized. Records are kept in a disjointed fashion and are often duplicated. During our audit, we found at least two spreadsheets purporting to be the list of employees with a Commercial Driver's License (CDL) (one maintained by HR and one maintained by Risk). The lists did not agree, and we do not believe that either list was accurate. As a result, there is a potential that individuals were left out of the pool for random alcohol and controlled substances testing as well as a potential that the City made inquiries into the driving records of individuals without justification. Moreover, duplication of records leads to inefficiency.

Finally, confidential or private information is not kept in a secure manner or restricted to those who had a need to know. The spreadsheets used by HR, Risk, and the individual in Water Resources lists the employee's social security number. Consent forms, signed by employees to authorize the release of results of prior alcohol and controlled substances tests, are kept in a three-ring binder on a desk. These forms include the employee's social security number and, when returned, list information regarding prior test results. The pre-employment physical and results of drug tests are kept in a room at HR with controlled access but the files are not locked. Each HR employee can enter the room, so there is no assurance that the information contained in the medical files is not disclosed. Moreover, medical records obtained subsequent to hire are not forwarded to HR for inclusion in an employee's medical file. Instead, records are kept in a box under a staff person's desk in Risk and files at Water Resources (these files were locked but the key was kept in an unlocked desk drawer).

In response to our recommendations, HR provided the following comments:

HR substantially agrees with the many recommended steps to strengthen the management of the CDL process. HR will lead a committee consisting of all stakeholders (HR, Risk, Legal and departmental stakeholders.) to ensure that there is a coordinated effort towards the development of a revised City policy and practice involving the CDL Regulations. Human Resources will retain responsibility for the maintenance and integrity of the processes.

In addition, Risk indicated the following:

Risk Management (Risk) generally agrees with the recommendations contained in the CDL audit. Risk will coordinate work efforts with Human Resource Systems (HRS) to accomplish the overall goals.



The Action Plan on the following pages details our recommendations, management's responses to those recommendations, and the implementation status of management actions. The entire HR management response can be found in Appendix A. The entire Risk response can be found in Appendix B.

## Action Plan

Recommendations	Management Response	Status
<p>I. We recommend that the Human Resources General Manager instruct staff:</p> <p>A. To develop:</p> <ol style="list-style-type: none"> <li>1. A comprehensive list of authorized positions that include the possession, or ability to obtain, a CDL as a minimum qualification as well as a comprehensive list of authorized positions that require the ability to supervise operators of commercial vehicles.</li> <li>2. A process that would ensure that: <ol style="list-style-type: none"> <li>a) All required information is captured either on the application or with a supplement.</li> <li>b) A review is undertaken when appointing an internal candidate to determine if additional information should be obtained.</li> <li>c) An inquiry, using a standardized list of questions, is made to all employers within the three years preceding the application date to ascertain any issues with the applicant's safety record.</li> <li>d) The original CDL is obtained and photocopied by HR personnel for retention in the driver qualification file.</li> <li>e) The original medical certificate is obtained and photocopied by HR personnel for retention in the driver qualification file.</li> </ol> </li> </ol>	<p>Concur. HR will prepare comprehensive, updated lists of authorized positions that either require a CDL or supervise CDL positions. These updated lists will be important tools in improving the management of the CDL process.</p> <p>Concur with items 2 a through e. HR will: prepare a detailed process on CDL Administration (see VII A); review application process materials to ensure completeness and compliance for both internal and external candidates; develop an improved tracking system to ensure that we obtain all the additional information needed. A standardized form now exists in the new hire packet. A complete record keeping and tracking system will be developed.</p>	<p>Completed by Oct '02</p> <p>Completed by Dec '02</p>

Recommendations	Management Response	Status
<p>B. To review the job descriptions:</p> <ol style="list-style-type: none"> <li>1. For each position requiring operation of a commercial vehicle to ensure that the requirement to maintain a CDL and a good driving record while employed is clearly spelled out.</li> <li>2. For each position that sets out the responsibility to supervise employees that operate commercial vehicles to ensure that knowledge of state and federal requirements associated with the safe operation of a commercial vehicle are clearly stated within the minimum qualifications.</li> </ol> <p>C. To create and maintain a driver qualification file for each employee or contract worker who has a CDL and operates commercial vehicles on behalf of the City. The file should consist of all information outlined in 49CFR.</p> <p>D. To create and maintain a record retention schedule that identifies all records related to driver qualifications, the length of retention, and the process used to destroy the documents when no longer needed.</p>	<p>Concur. HR will review the terminology used in job descriptions and will check each job description for consistency.</p> <p>Concur. HR will develop standardized terminology and add to existing job descriptions</p> <p>Concur. HR will create driver qualification files from this point forward for newly hired CDL employees. Conversion of incumbent files will be implemented in phases</p> <p>Concur (see I, 2a). HR has met with Risk staff to coordinate processes and ensure we are working in a unified manner to address the recommendations of this audit. HR will ensure compliance to the internal policies and the Federal and State Regulations.</p>	<p>Completed by Oct '02</p> <p>Completed by Oct '02</p> <p>Completed by Mar '03</p> <p>Completed by Dec '02</p>

Recommendations	Management Response	Status
<p>II. We recommend that the Financial Services General Manager instruct the Risk Management Director to:</p> <p>A. Develop policies and procedures that require:</p> <ol style="list-style-type: none"> <li>1. All individuals to undergo training and a road test prior to operating a commercial vehicle on behalf of the City.</li> <li>2. Review and approval of the training and road test that will be given by the department or division to which the individual will be assigned.</li> <li>3. Review of the qualifications of the individual who will be assigned to conduct the road test.</li> <li>4. Review and approval of the road test before the individual is allowed to operate the equipment.</li> <li>5. Issuance of a "Qualification Card" that documents that the driver has demonstrated appropriate skills to safely operate the vehicle assigned.</li> </ol> <p>B. Develop a process to obtain and review the driving record from each state in which an applicant (external or internal) held a driver's license or permit in the three years preceding the date of the application. The review should be conducted by a sufficiently trained individual and documented. All documentation should be forwarded to HR for inclusion in the driver qualification file, if the individual is hired or promoted.</p>	<p>Concur. Risk will establish a CDL Requirements Team to oversee training, qualification, and documentation related to Commercial Driver's Licenses. The team will be comprised of members from each department with employees who drive commercial vehicles. The team will meet on a monthly basis initially, then quarterly on an ongoing basis. A Risk representative will act as chairperson and orient the team, develop agendas, formulate instructor qualifications, meeting minutes, and review the overall and divisional CDL program annually to ensure compliance with federal regulations and city policies.</p> <p>Concur. For new hires/promotions Risk will depend on HR supplemental information, per item IA 2a of this Action Plan, to complete this requirement. For existing CDL employees, Risk will contact CDL drivers to complete a new copy of the supplement used at the time of hiring/promotion and return to Risk for follow-up.</p>	<p>Underway. Completed by 1/1/03</p> <p>Completed by 1/1/03</p>

Recommendations	Management Response	Status
<p>III. We recommend that the City Manager establish the responsibility for the driving record review with Risk. However, once the review is complete, Risk should be required to forward the driving record, documentation of the review, and any required follow-up plan discussed with the employee and the supervisor to HR for placement in the driver qualification file.</p>	<p>Concur.</p>	<p>Underway Completed by 3/03</p>
<p>IV. We recommend that the Financial Services General Manager direct the Risk Management Director to:</p> <ul style="list-style-type: none"> <li>A. Thoroughly document the process that will be used to review driving records and provide adequate training to the staff that will be assigned to conduct the review.</li> <li>B. Ensure that each contract worker assigned to operate a City commercial vehicle is included in the population of drivers identified for annual review.</li> <li>C. Ensure that the individual is still employed or under contract to the City prior to requesting the driving record.</li> <li>D. Implement a process to obtain the annual certification from each driver with a CDL.</li> <li>E. Require documentation of concerns identified during the review of the driving record and annual certification provided by the employee.</li> <li>F. Require a written response in the form of an action plan that will be signed by the employee and the supervisor outlining the steps taken to address the issues.</li> </ul>	<p>Concur with item IV A through E. Risk will perform the required annual MVR reviews. Risk will coordinate the CDL list with the effected division and HR to assure accurate accounting of CDL drivers. Risk will follow up to obtain copies of all CDL certifications from employees for Qualification Card issuance.</p> <p>Concur. Risk will require a written action response plan within 30 days of notification.</p>	<p>Underway Completed by 1/1/03</p> <p>Created and implemented</p>

Recommendations	Management Response	Status
G. Require the supervisor to provide a written follow-up outlining the completion of the steps on the action plan. After review by Risk, the response should be forwarded for inclusion in the driver qualification file.	Concur. Risk will follow up within an additional 30 days to verify completion of the action plan.	Created and implemented
H. Issue a new "Qualification Card" or annual sticker that can be affixed to an existing card after completion of the driver record review and verification that the medical certification is still valid.	Concur. Risk will create and issue a CDL qualification card to include a stamp/sticker area, which will serve to verify the record review and medical certification.	Completed by 3/03
I. Evaluate the benefit of obtaining a driving record twice a year compared to the cost of resources required to make the inquiries, complete the reviews, and maintain the appropriate records.	Concur. Annual record reviews are adequate.	Already implemented
V. We recommend that the City Manager direct the Human Resources General Manager to:		
A. Update the HR Brief addressing the responsibilities associated with driving a vehicle while on City business.	Concur. HR will update and consolidate current policies into a comprehensive HR Policy. This policy will be communicated to all employees.	Completed by Dec '02
B. Develop a process to provide the Brief to all employees who operate a vehicle to conduct City business.	Concur. HR will develop a comprehensive CDL communications plan using website and written communications.	Completed by Jan '03

Recommendations	Management Response	Status
<p>VI. We recommend that the Financial Services General Manager instruct the Risk Management Director to develop and implement policies and procedures that:</p> <p>A. Require written documentation from a supervisor stating that an employee is no longer required to maintain a CDL and will not be allowed to operate a commercial rated vehicle prior to releasing an employee from the requirement to obtain a current medical certificate.</p> <p>B. Require a written agreement that can be used to outline the employee's responsibility to obtain a CDL and to maintain it in good standing. The agreement should outline the responsibility to repay the cost of the medical examination should the employee not obtain the CDL or fail to maintain a good driving record.</p>	<p>Concur with item VI A and B. HR will need to work cooperatively with Risk Management to ensure proper coordination of responsibilities.</p> <p>Concur. At the time of the medical exam renewal for each driver, Risk will contact the supervisors of the drivers by e-mail to provide a status as to whether the driver's current job position necessitates a CDL or not. The supervisor must specifically tell Risk that the employee will no longer operate a CDL vehicle as part of their job duties.</p> <p>Concur. A form has already been developed for use at the time of hire/promotion that the employee must sign agreeing to repay costs incurred by the City should the employee fail to obtain a CDL in the prescribed time period or maintain a satisfactory driving record. This form will be used by Risk.</p>	<p>Completed by Jan '03</p> <p>Already implemented</p> <p>Already implemented</p>

Recommendations	Management Response	Status
<p>VII. We recommend that the Human Resources General Manager direct HR staff to:</p> <p>A. Develop a current policy on alcohol misuse and use of controlled substances sufficient to meet the requirements of 49CFR and implement a process to ensure that:</p> <ol style="list-style-type: none"> <li>1. Each employee hired or promoted to a position that requires a CDL receives the document and signs, in a log or through some other manner, to evidence receipt.</li> <li>2. Each employee hired or promoted to a position that requires supervision of employees who are required to have a CDL receives the document and signs, in a log or through some other manner, to evidence receipt.</li> </ol> <p>B. Distribute the revised document to all current employees who either have a CDL or supervise employees who have a CDL. These employees should also be required to sign, in a log or through some other manner, to evidence receipt.</p> <p>C. Develop written policies and procedures outlining the process to test employees and contract workers for alcohol misuse and use of controlled substances. The policies and procedures should:</p> <ol style="list-style-type: none"> <li>1. Require an employee who is selected for random testing to receive notice that the testing is being conducted as a requirement of 49CFR.</li> </ol>	<p>Concur with item VII A 1 and 2. HR will update and consolidate policy language and will research best practices on substance abuse policy.</p> <p>Concur. HR will expand the existing substance abuse policy.</p> <p>Concur. See I 2a.</p> <p>Concur. HR will add citation 49CFR to our policies.</p>	<p>Completed by Dec '02</p> <p>Completed by Jan '03</p> <p>Completed by Dec '02</p> <p>Completed by Dec '02</p>



Recommendations	Management Response	Status
2. Require an employee to be tested for use of controlled substances prior to the first time of conducting a safety related function for the City if there is a significant time span between the pre-employment alcohol and controlled substances test.	Concur. HR will establish a monitoring system to meet this requirement. HR will define "significant time span."	Completed by Dec '02
3. Outline how often random alcohol and controlled substances testing will be undertaken and the process that will be followed to ensure that testing dates are reasonably spread throughout the year.	Concur. HR will outline the process and frequency of random CDL testing.	Completed by Dec '02
4. Outline how the selection will be made to ensure that the City meets the minimum requirement.	Concur. Process will be more specifically articulated in policy/process descriptions.	Completed by Oct '02
5. Outline the records that will be maintained and the process that will be followed to ensure that the documentation is maintained in a controlled, secure manner.	Concur. This is related to item I, C and D.	Completed by Mar '03
6. Require written verification from the supervisor prior to removing an employee from the pool of drivers with CDLs. Verification that the employee is no longer in a job classification that requires a CDL should also be undertaken.	Concur. This is related to item VI, A.	Completed by Mar '03
7. Ensure that all contract workers, fulfilling job assignments that require a CDL, are included in the pool of drivers with CDLs.	Concur. This is related to item IV, B.	Completed by Nov '02
D. Develop an Administrative Regulation that outlines the requirement for training on symptoms and risks associated with alcohol misuse and controlled substances abuse.	Concur. HR will include this in the new HR Policy, (see V, A). The existing training manual will be utilized.	Completed by Dec '02

Recommendations	Management Response	Status
E. Develop a records retention schedule for documentation related to programs addressing alcohol misuse and use of controlled substances.	Concur. This item is related to item VII, C and will be addressed in the expanded substance abuse policy.	Completed by Jan '03
VIII. We recommend that the Financial Services General Manager instruct the Risk Management Director to develop a process for documenting instances in which a City employee or contract worker was involved in an accident that met the requirements for post-accident testing. This process should include a written document that states the time the accident occurred, instructions on obtaining the required test within a certain timeframe, and a place for the firm conducting the test to indicate the time that the test was actually completed. A copy of the form should be maintained by Risk. Risk should provide a copy directly to HR as notification to expect test results. Risk should also provide a copy to the employee's supervisor who, in turn, should forward a copy to HR once the test has been completed.	Concur. Risk will develop a process documenting instances and establishing responsibilities and communication links for CDL accidents requiring post accident drug testing. The process will include the direct involvement of the CDL employee's supervisor and the HR Department.	Completed by 2/1/03

## BACKGROUND

According to information provided by HR and Risk, the City employs<sup>1</sup> more than 200 individuals<sup>2</sup> who possess a CDL. Generally, someone who operates a vehicle that meets the criteria listed below must have this type of license.

*Commercial Vehicle means:*

- *Gross combination weight of 26,001 pounds inclusive of a towed unit with a gross vehicle weight of 10,000 pounds or more (Class A).*
- *Gross vehicle weight rating of 26,001 pounds or more (Class B).*
- *Designed to transport 16 or more passengers, including the driver (Class C).*
- *Any size used in the transportation of materials found to be hazardous which requires the vehicle to be placarded under the Hazardous Materials Regulations (Class C).*

**SOURCE:** Federal Motor Carrier Safety Administration, Code of Federal Regulations Title 49, Chapter III, 383.5.

FMCSA requires anyone hiring a driver to operate a commercial vehicle to:

- Ensure that the driver can safely operate the type of vehicle that the driver will be assigned to.
- Identify any potential safety issues by:
  - Reviewing the driving record and employment history when hiring a driver.
  - Reviewing every driver's driving record annually.
  - Requiring the driver to annually submit a list of their moving violations.
- Identify any health issues that potentially create a safety issue by requiring the driver to undergo a physical at least every two years.
- Maintain a policy on alcohol misuse and controlled substances abuse.
- Obtain information regarding prior alcohol misuse or controlled substances abuse from previous employers when hiring a new driver.
- Screen for controlled substances use prior to hire and at certain other times.

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<sup>1</sup> The term "employs" refers to an employment relationship as well as a contractual relationship.

<sup>2</sup> Due to inconsistency of data, we could not determine the true number of drivers. This number is estimated based on lists that were provided.

- Train supervisors so that they can determine when there is a reasonable suspicion to warrant the need for alcohol and/or controlled substances testing or some other form of intervention.

The following summarizes situations when testing must be done and the information that must be provided to drivers.

Screening must be done:

- Prior to the first time a driver carries out a safety-sensitive function (controlled substances only).
- As soon as practicable when a commercial vehicle is involved in an accident and one of the following two situations occur:
  - Loss of life.
  - The driver receives a citation and
    - Someone receives a bodily injury that required medical treatment or
    - A vehicle(s) is damaged to the extent that transportation by tow truck or other means is required.
- On a random basis using a scientifically valid method that ensures each driver has an equal chance of being tested each time the selection is made.
- In situations in which there is reasonable suspicion to believe that driver has reported to duty or remained on duty:
  - While having an alcohol concentration of .04 or greater.
  - After using any controlled substance, except under the instructions of a licensed medical practitioner who has informed the driver that the substance will not adversely impact the ability to safely operate a commercial vehicle.
- Prior to return-to-duty after a determination was made that the driver engaged in prohibited conduct (i.e., use of alcohol or controlled substances while performing safety-sensitive functions).
- As follow-up testing when it has been determined that a driver is in need of assistance in resolving problems associated with misuse of alcohol and/or use of controlled substances.

Materials provided must contain, at a minimum:

- The identity of the person designated to answer questions about the materials.
- The categories of drivers who are subject to the provisions.
- Sufficient information about the safety-sensitive functions to clearly outline the period of the workday the driver is required to be in compliance.
- Specific information regarding prohibited driver conduct.
- Circumstances for testing a driver for alcohol and/or controlled substances.
- Procedures that will be used to conduct the tests, protect the driver and the integrity of the testing procedures, and safeguard the validity of the test results.
- The requirement for the driver to submit to the alcohol and/or controlled substances test and the consequences for not participating.
- Consequences to drivers who have violated the provisions.
- Consequences of having alcohol concentration of more than .02 but less than .04.
- Information concerning the effects of alcohol misuse and use of controlled substances on an individual's health, work, and personal life.
- The signs and symptoms of an alcohol or a controlled substances problem.
- Information on the available methods of intervening when an alcohol or controlled substances problem is suspected.

**SOURCE:** Audit Analysis of Federal Motor Carrier Safety Administration, Code of Federal Regulations Title 49.

The employer must also maintain documentation that demonstrates compliance with the requirements. This is accomplished through the maintenance of a "Driver Qualification File," a file for each driver that includes<sup>3</sup>:

- The application for employment.
- A written record of each inquiry made to a previous employer.
- The certificate of road test or a copy of the CDL should the City choose to accept the CDL as equivalent to the road test.
- The response from each agency to the driver record inquiry.
- A note relating to the annual review or the driving record.
- A list or certificate relating to violations of motor vehicle laws and regulations.
- The original or a copy of the employee's medical certificate.

As well, the employer is required to maintain records of its alcohol misuse and controlled substances use prevention programs. The following is a synopsis of the records required.

- Records related to the collection process must be kept for two years. This would include:
  - Documents related to the random selection process.
  - Documents generated in connection with reasonable suspicion tests.
  - The pre-employment controlled substances test.
- Records related to positive test results, refusals, calibration, and the administration of the testing programs must be kept for five years.
- Records related to negative test results must be kept for one year.
- Records related to the education and training of drivers and supervisors must be retained for two years after an employee ceases to perform functions that require the education and training.

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<sup>3</sup> Due to record retention policies, the information kept in a driver qualification file would vary based on the number of years the driver has worked for the City.

## **CITY NEEDS TO ENSURE COMPLIANCE WITH FEDERAL REQUIREMENTS**

We assessed the City's compliance with the requirements listed in the background section and found:

- There is room for improvement in the verification of qualifications prior to hire or promotion.
- There is room for improvement in the annual verification of qualifications.
- The status of medical certificates is tracked and individuals are notified when a physical is required. However, there are improvements that can be made in the handling of records and process used when an employee wants to obtain a CDL.
- There is room for improvement in the program offered by the City for alcohol misuse and controlled substances abuse.

### **A More Thorough Review of Qualifications Needs to Be Undertaken Prior to Hire or Promotion**

To help ensure that drivers of commercial vehicles are qualified, the FMCSA sets out certain duties for the employer.

*The rules in this part establish minimum duties of motor carriers with respect to the qualifications of their drivers.*

**SOURCE:** Code of Federal Regulations Title 49, Chapter III, Part 391, Subpart A.

These duties include:

- Reviewing the driving record and conducting a background investigation to determine if there are any safety issues that need to be addressed prior to hiring a driver.
- Determining that the driver can safely operate the class of vehicle that they will be assigned to operate.

To demonstrate compliance, we expected the City to be able to provide:

1. A comprehensive list of authorized positions that require possession of a CDL or the ability to supervise employees who operate commercial vehicles.
2. An application or supplement that captured all the information required by 49CFR.

3. A documented process to be followed when conducting the background investigation.
4. Documented standards against which to review the driving record.
5. A checklist or other method that ensured that all documentation was obtained.

We found that these items are not in place. The factors discussed in the following sections led us to this conclusion.

***List of Positions Would Facilitate Review of Qualifications***

HR does not maintain a current list of authorized positions that:

- Require the possession of, or the ability to obtain, a CDL.
- Supervise individuals who are required to operate commercial vehicles.
- Serve as a replacement driver and, therefore, need to maintain a CDL.

Without a comprehensive list of CDL positions, HR is not able to effectively identify situations that require documentation such as a copy of CDL, medical certificate, and consent forms. As well, it would be difficult to ensure that job descriptions contain consistent language outlining the minimum qualifications and the requirements for continued employment (i.e., maintaining a good driving record while employed).

Moreover, it would be difficult for HR to identify individuals for participation in required training programs. Finally, the lack of a comprehensive list of CDL positions potentially precludes the City from being in compliance with requirements for random testing programs. These issues will be addressed in the section related to alcohol and controlled substances programs.

***A Comprehensive Application or Supplement Would Increase Compliance***

An application submitted for a position that requires a CDL must include:

1. The name and address of the employer.
2. Applicant name, address, date of birth, and social security number.
3. The date the application was submitted.
4. The addresses at which the applicant has resided during the three years preceding the date of the application.



5. The issuing state, number, and expiration date of each unexpired CDL or permit that has been issued to the applicant.
6. The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment that has been operated.
7. A list of all motor vehicle accidents in which the applicant was involved during the three years preceding the date the application was submitted, specifying the date and nature of each accident and any fatalities or personal injuries caused by the accident.
8. A list of all violations of motor vehicle laws or ordinances (other than parking) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application was submitted.
9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle.

In addition to the items listed above, the regulations require the application to include the following certification statement.

*This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.*

**SOURCE:** Code of Federal Regulations Title 49, Chapter III, Part 391.21 (B)(12).

We reviewed the City's current application process and found that the standard application would not ensure that the City obtained all the required information. Of the nine items specified, only the first three items listed above and the requirement for a certification statement<sup>4</sup> are included. The following summarizes some of the gaps between what is required and the City's current process:

1. The application only requests a current address while the federal regulations require applications to contain the addresses at which the applicant has resided during the last three years preceding the application.
2. There is no means of capturing information regarding previous accidents although federal regulations require the application to

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<sup>4</sup> The language contained on the City's application is not verbatim but would appear to be sufficient to achieve the desired outcome.

contain a list of motor vehicle accidents in which the applicant was involved during the three years preceding the application.

3. Applicants are instructed to list “serious driving offenses.” However, the federal regulations require the applicant to list all violations (except parking violations) during the preceding three years in which the applicant was convicted or forfeited bond.
4. There is no place on the application for an applicant to affirm that there has been no denial, revocation, or suspension of any license or permit. Correspondingly, there are no instructions to detail, if necessary, any denial, revocation, or suspension of any license or permit to operate a motor vehicle.
5. While there is a space on the application to list a CDL number, state, and expiration date, the applicant is not instructed to include information on all unexpired licenses or permits.

Without a comprehensive application or supplement, the City may not receive sufficient information on which to make an informed hiring or promotion decision. Moreover, without all the listed information, the City would not be able to undertake the background investigation that will be discussed in the following section.

### ***A Sufficient, Complete Background Investigation Needs to Be Undertaken***

Federal Regulations require an employer to undertake a sufficient investigation into an applicant’s employment record when hiring for a position that requires a CDL. This includes an inquiry into the employment history with each employer for the three years preceding the date of the application. A written record of each inquiry must be maintained in the driver’s qualification file along with the name of the employer representative who conducted the inquiry.

HR leaves inquiries of previous employers to the discretion of the hiring department. According to HR staff, a general reference check is completed for each new employee, however, this process may or may not include inquiries of previous employers. As a result, there is no assurance of a consistent interview process using a standardized list of questions designed to seek information regarding the candidate’s safety record. There is no assurance that individuals within the department, assigned to conduct the background inquiries, have the appropriate skills to conduct a thorough inquiry. Finally, there is no written guidance that establishes a process of documenting any inquiries to previous employers to ensure consistent record keeping.

***Risk Management Needs to Review the Driving Record Prior to Hire or Promotion***

Federal regulations require an employer to, within 30 days of hire, inquire into the driving record of anyone hired for a position that requires a CDL. The inquiry must encompass every state in which the driver held an operator's license or permit during the last three years. A copy of each response must be maintained in the driver's qualification file.

Instead of making an independent inquiry, as required by federal regulations, HR places the responsibility for obtaining the driving record on the applicant. This process opens the potential for incorrect information to be provided. As well, there is no process in place to make an inquiry before promoting an employee to a position that requires a CDL. As a result, there is no assurance that an inquiry is undertaken, particularly if a review was not completed at the time of hire.

Moreover, Risk, the division that conducts annual reviews of driving records once an individual is hired, is not required to review the driving record and sign-off on the hire or promotion. As such, there is no process that ensures that a sufficiently trained employee conducts the review in a consistent, thorough manner. Therefore, there is a potential for safety issues to be overlooked or not brought to management's attention prior to hire or promotion.

***An Independent Review of Qualifications Needs to Be Completed Prior to Hire or Promotion***

Federal regulations require the City to verify that a driver can safely operate the vehicle to which the driver is assigned. This determination is made by requiring the driver to complete a road test conducted by a person competent to determine that the driver can safely operate the vehicle that the employer intends to assign to them. The City may also choose to accept, as equivalent to the road test, a valid CDL that has been issued to operate specific categories of commercial vehicles that the employer intends to assign. This decision does not preclude the City from requiring the driver to complete a successful road test as a requirement of employment.

However, we found no Administrative Regulation<sup>5</sup> or other guidance that addressed whether or not the City will accept a CDL or require the completion of a successful road test prior to hire or promotion. We made inquiries of individuals within Community Services, Water Resources, and Solid Waste and found that the process used to hire or promote differs within these areas.

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<sup>5</sup> Previously known as Administrative Guidelines.

According to staff in Community Services, there is no requirement for a road test, only the possession of a CDL. Water Resources requires the supervisor of a new hire to ride along and observe. The supervisor then signs off on an equipment checkout sheet confirming that the employee has a CDL and can operate the vehicle assigned. Staff in Solid Waste stated that employees receive on-the-job training and must pass a qualification test conducted by their supervisor. After successful completion, the driver receives a “Qualification Card” that lists the type of vehicle that the driver is qualified to operate.

The absence of a Citywide requirement for on-the-job training and completion of a road test limits the City’s ability to ensure that a driver can safely operate the type of vehicle assigned.

### ***Appropriate Documentation Needs to Be Maintained***

49CFR requires certain documentation to be obtained and maintained in a driver’s “Qualification File.” This information includes the application, a copy of the driver’s CDL (or road test certification), the original or photocopy of the driver’s medical certification, documentation of the driving record review, and inquiries to previous employees.

Currently, the City does not have a “Qualification File” that satisfies this requirement. Some information, such as the application and copy of the driving record submitted by the employee, is kept in HR in a “Personnel” file. Background checks, if completed, are kept in a “History” file. Copies of the CDL and medical certificate, if obtained, are kept in files at Water Resources. Other information, such as the inquiries to previous employers, is not captured.

While completing this work, we found that no one makes an inquiry into the status of a medical certificate when hiring a new employee. According to HR staff, the City requires a pre-employment physical and this process would be sufficient to ensure that a new hire is physically qualified to operate a vehicle. However, we found:

- The pre-employment physical does not meet the requirements necessary for issuance of a CDL medical certificate.
- There is no assurance that the list of positions used to identify situations requiring the pre-employment physical incorporates all positions requiring a CDL.

We also found that there are no schedule of records to be maintained, the length of time to be kept, and a person responsible for ensuring compliance with the record retention schedule.

Failure to establish responsibility for maintenance of a driver qualification file that meets federal standards puts the City at risk of not being able to demonstrate compliance with requirements. Correspondingly, a lack of defined records and a record retention schedule creates the potential that required records will not be kept or will be kept beyond the federal requirement. Finally, failure to inquire into the status of the medical certificate or ensure that a new certificate is obtained when hiring an individual with an existing CDL creates the potential for the City to hire an individual who does not meet the minimum medical qualifications.

### **City Needs to Ensure that Drivers Continue to Be Qualified**

The responsibility for ensuring that a commercial vehicle is operated safely does not stop once an employer determines that an employee is qualified to drive the vehicle. Annually, the employer must inquire into the driving record of the employee to identify any safety concerns that should be addressed. As well, the employer cannot knowingly allow an employee who is no longer qualified to drive, to operate a vehicle.

We found that the City needs to develop a process that ensures that the annual review is sufficiently completed. As well, the City needs to re-evaluate the decision to obtain a driving record every six months instead of annually as required. Additionally, the City needs to update written materials outlining an employee's responsibility.

### ***City Needs to Establish Responsibility for the Annual Review of Driving Records and Employee Certification***

An employer, under 49CFR, is required to undertake an annual review of the driving record of any employee who operates a commercial vehicle. The purpose of this review is to determine if there are any safety concerns that need to be addressed or considered. The driving record and a note detailing the review, including the name of the individual completing the review, must be maintained in the driver's qualification file.

As well, the employer is required to obtain an annual certification statement from the employee regarding any instance of traffic violations during the past year. This certification, similar to the driving record review, must also be maintained in the qualification file. Shown on the next page is the language suggested for this certification statement.

*I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months. (Information to be listed below.)*

*If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.*

**SOURCE:** Federal Motor Carrier Safety Administration, Code of Federal Regulations Title 49, Chapter III, 391.27.

Risk has a process in place to obtain, at least on an annual basis, a copy of the driving record for employees who have a CDL. However, there is little assurance that the inquiry would include all employees and contract workers. We also found that neither Risk nor HR has a process in place to obtain the required statement from the employee.

As part of our work, we looked at the process followed by Risk. According to personnel in Risk, driving records are requested using an Excel spreadsheet that lists CDL employees. The list includes the employee name, license number, class of license, expiration date, medical examination date, and date of last MVD record check. Based on a review of the list, interviews with staff, and testing of files, we found:

- The list maintained by Risk included approximately 65 more employees than the list maintained by HR. We inquired about the process to remove an employee who is no longer employed and found that HR does not notify Risk when an employee leaves. Moreover, we also found that Risk does not notify HR when a current employee receives a CDL for the first time.
- There is no written guidance that can be used by the staff person assigned the responsibility to obtain the driving records. The individual currently undertaking the review, received only informal training on the review process when the duties were transferred to her.
- There is no filing system in place that would facilitate the determination that a review was actually accomplished. Driving records are maintained in a bulk fashion by date of request instead of individual files. As such, it would be difficult to determine if a record had been misplaced, lost, or simply not received. 49CFR requires the record of the review to be maintained in the driver qualification file for a set period.

- The actual review is not documented. In some instances, we found handwritten notes on the driving record, but this practice appeared to be the exception. Most records did not reflect any indication of a review. 49CFR requires the date of the review as well as the name of the reviewer to be retained as part of the review.
- Risk does not obtain and review the records for employees provided through contractual arrangements. According to Risk staff, they believed it was the responsibility of the contract vendor to ensure that the driving record is checked annually. However, no contact was made with the vendor to ensure that this review was being performed. We obtained the contract and could not find a provision outlining this requirement.

We found that Risk does not document steps taken when potential issues surface during the review. According to staff, the driver's supervisor is contacted but Risk does not get involved in decisions related to disciplinary actions. After the initial contact, there is no further action taken by Risk.

***City Needs to Re-Evaluate Decision to Obtain Driving Record Every Six Months***

According to Risk staff, the current practice is to request the driving record for each employee with a CDL every six months. This practice effectively doubles the cost, in staff resources, to the City but does not appear to be based either on federal requirements or documented history indicating the need to review records more frequently. As currently structured, there is no way to determine the effectiveness of biannually reviewing records. There is no documentation required to indicate the date of the actual review, the person who conducted the review, or the results of any follow-up issues.

***City Needs to Sufficiently Educate Employees Who Have a Commercial Driver's License to Ensure Compliance with Requirements***

Federal regulations require a driver to notify the employer if certain actions happen so that the employer can make other arrangements if the driver is no longer qualified to drive a commercial vehicle. During our audit, we could not locate any materials developed by HR for distribution to employees that outlines the responsibility to make timely notification of a serious traffic offense or other action that would draw into question the employee's ability to safely operate a vehicle.

According to HR staff, employees should understand the significance of reporting these violations in a timely manner. The Director, Organizational Effectiveness, noted that the requirement is outlined in an HR Brief and the employee would be in violation of policy if he or she did not notify the

appropriate supervisor when a license is revoked, cancelled, or suspended. The Director also pointed out a provision in Chapter 14 of the Scottsdale Revised Code that states that failure to report the loss of a license or certification required to perform job duties is grounds for discipline.

We reviewed HR Brief 36 “Loss of Driver’s License” and noted that the Brief has not been revised since April 1991. It does include a statement that an employee who is required to drive on the job but has their license suspended, canceled, or revoked must notify their supervisor within one working day of the loss of the license. However, we also noted that the Brief does not specifically address requirements associated with a CDL.

It does not appear that the information in either the Ordinance or the HR Brief has been disseminated throughout the organization so that employees would be aware of the requirements. While there is a link to HR Briefs on the HR Intranet site, neither the Brief nor list of disciplinary actions is included or referenced in the most recent New Employee Workbook. As well, there is no written requirement for an employee, who is required to drive as a condition of employment, to receive a copy of the Brief and sign a copy to evidence receipt of the information.

### **City Appears to Be in Compliance with Requirement for Completing Medical Examinations at Least Every Two Years**

Both 49CFR and Arizona statutes incorporate requirements that are designed to ensure that a driver is physically able to operate a commercial vehicle safely. As a result, an individual with a CDL is required to undergo a physical at least every two years by a qualified examiner. The examiner must complete a medical certificate and the driver is required to either keep the original (or photocopy) of the certificate with them when they are driving. The employer must also keep a photocopy (or the original) in the driver qualification file. To ensure compliance, the State requires a Department of Transportation (ADOT) Physical Examination form to be filed with the Medical Review Program administered by the Motor Vehicle Division (MVD) of ADOT. Failure to supply the required information may result in the suspension of the driver’s license.

Similar to the annual review discussed above, Risk plays a significant role in the medical examination review process. Risk maintains a list of expiration dates, notifies employees, and arranges for the examination. A nurse, under a contractual arrangement, completes the examination on site at the Corporation Yard, fills out the form, and delivers it to MVD. Copies are also provided to Risk and a record-keeper in Water Resources.



As part of our work, we selected 20 employees from the list maintained by HR and verified that Risk had a record of a medical examine that met federal requirements. Of the 20, we found 19 records. Risk did not have a record of the remaining employee.

During the review, we noted that Risk does not require documentation when an employee states that they no longer have a CDL. For example, the supervisor is not required to state, in writing, that the individual is no longer required to maintain a CDL and will no longer operate vehicles rated as commercial.

We also found that Risk will cover the cost of the medical examination prior to an employee actually receiving a CDL (to obtain a CDL, a medical certificate must be provided at the time of application) without a written agreement that the cost of the physical will be re-paid should the employee not follow through and obtain the CDL.

#### **City Needs to Implement Sufficient Procedures to Ensure Compliance with Federal Requirements Related to the Misuse of Alcohol and Use of Controlled Substances in the Workplace**

There are several requirements specifically dealing with misuse of alcohol and controlled substances in 49CFR. These requirements include:

- Developing a written policy regarding misuse of alcohol and use of controlled substances while performing safety related activities.
- Developing and implementing a testing program to ensure compliance.
- Appropriately training supervisors to assist in identifying instances of misuse or abuse.
- Maintaining the confidentiality of the information obtained as a result of any required testing program.

Currently, the City has a well-documented stand on the use of alcohol and drugs in the workplace. Applications filled out by prospective employees include a statement to the effect that the City promotes a “Drug and Alcohol Free Workplace” and puts the candidate on notice that a pre-employment alcohol and drug test will be required. As well, the City has a written Substance Abuse Policy that is provided to new employees. The form is required to be signed as a means of evidencing the fact that the employee received the policy.

However, we found that the established practice is not sufficient to ensure compliance with the requirements outlined in 49CFR. Namely:

- The Substance Abuse Policy provided to new hires does not include all the required elements necessary for a qualified substance abuse policy.
- There is no assurance that the required information regarding prior test results will be obtained when hiring a new employee.
- There is no requirement for a current employee to undergo a controlled substances test prior to their first assignment to safety-related duties when they are promoted to a position that requires a CDL.
- The random testing program, as currently implemented, does not adhere to requirements.
- There is no assurance that post-accident testing is undertaken as required.
- Training to assist supervisors and peers in identifying situations that warrant additional follow-up has not been offered or required since 1995.
- The records are not kept in a secure location with limited access.

Based on interviews with staff and a review of the documentation, we believe that the issue of non-compliance is the result of the lack of written policies and procedures. As a result, staff are undertaking the tasks as explained to them, but without a complete picture of all the requirements and direction on how to maintain appropriate records.

***Human Resources Needs to Develop a Substance Abuse Policy that Meets or Exceeds the Requirements***

49CFR requires an employer to document a policy that sets out specific information regarding the misuse of alcohol and use of controlled substances while performing safety-related functions (see the Background Section for a list of information that must be included). The policy is to be provided to employees who are required to have a CDL, and a receipt must be obtained from the employee evidencing the fact that the policy was provided.

We found that the City is currently not in compliance with the requirements for this policy. While the City developed a document in 1994 that contains most of the required information, it has not been kept current and has not been consistently provided to the appropriate employees. According to HR staff, the document was distributed in late 1994 as part of a training program. However,

there is no record of the document being distributed to employees who have been hired or promoted since that time.

We reviewed the internally developed document and found that it contains a large portion of the required material and would serve as a good start in developing a new document. However, the information would need to be updated to reflect current information prior to being distributed.

***Human Resources Needs to Comply with Requirements to Obtain Information Regarding Prior Test Results***

49CFR, Part 382.413, requires an employer to obtain information on previous alcohol and controlled substances tests. The inquiries must cover all employers within the two years preceding the application date.

HR attempts to comply with federal requirements. The “New Employee Handbook” includes a consent form that is used to make the inquiry. When completed by the employee, HR mails the form to the previous employer. However, we found that no one in HR verifies that the form submitted by the employee will cover the two years preceding an application. As well, the forms are sent through regular mail without a request for a delivery receipt. As such, it would be difficult to determine when the request was made and whether or not it was received.

When feasible, the information should be obtained and reviewed prior to, but no later than 14 days after, the first time an employee carries out a safety-related function for the City. If the information is not reviewed within this timeframe, the City cannot let the driver continue to perform safety-related functions without making a good faith effort to obtain the information. According to HR staff, no efforts are undertaken to contact an employer who does not return the form. For those forms that are returned, there are no procedures that outline the steps needed to ensure that the information is reviewed in a consistent manner.

Finally, 49CFR also requires that information obtained as a result of these inquiries be maintained in a confidential manner. However, we found that completed forms are kept in a three-ring binder on a staff person’s desk. As well, the process used to collect the information does not lend itself to keeping the information secure. For example, neither the form nor the return envelope is marked confidential so that someone is placed on notice that the information needs to be handled appropriately.

***Procedures Need to Be Developed to Ensure that Employees are Tested Prior to Performing Safety-Sensitive Functions***

The City requires potential employees to undergo an alcohol and controlled substances test within 24 hours of the acceptance of an offer for employment. This pre-employment test is used to satisfy the requirements under 49CFR. However, we found that there is a potential that the date of the initial pre-employment test will precede the date that an employee actually obtains a CDL. For example, Solid Waste Management stated that the department chooses not to hire employees from outside the City into a position that requires a CDL because they prefer to train and promote from within.

However, 49CFR, Part 382, Subpart C, requires testing for controlled substances prior to the first time a driver performs safety-sensitive functions for an employer. This opens the question as to whether or not a controlled substances test completed up to or perhaps more than six months prior to obtaining a CDL would be sufficient to satisfy the requirements.

***Human Resources Needs to Develop a Random Testing Program that Meets the Intent of the Regulations***

Relative to employees with CDLs, HR has historically been responsible for the City's compliance with the requirement for random, periodic alcohol and controlled substances testing. According to the person who manages the program, the goal is to conduct four tests at various times during a year. However, HR could not provide documentation that outlined how the program was to be operated, the process to be used to select the time for the test, the individuals to be included, the manner in which to keep records, or the length of time records are to be kept.

We compared the program as outlined by HR staff to the requirements set out by 49CFR and found that the program is not structured to ensure compliance with federal requirements. We found:

- Employees identified for testing are not given adequate notice that the testing is a requirement. 49CFR requires that each employee, selected for testing, receive notice that the testing is required under 49CFR, Part 382.
- There is no assurance that the list used to select individuals for testing is all-inclusive. We found discrepancies in lists maintained in various areas and could not identify any process that would ensure that HR receives notification when a current employee receives their first CDL.

- Testing for alcohol misuse is only conducted once a year. 49CFR requires testing to be spread reasonably throughout the year.
- There is no assurance that controlled substances testing will be conducted as the current practice was outlined (four times a year) and the potential exists for testing to be unreasonably spread throughout the year.
- A pre-determined sample size is used without consideration of the sample guidelines outlined by the federal government. As a result, the City over samples. There is no written guideline that indicates that the over-sampling was the result of a concerted thought process.

**City Needs to Provide Appropriate Notice to Employees**

49CFR requires an employer to provide written notice to an employee, prior to any random drug test, that the test is being scheduled as outlined in 49CFR, Part 382. However, the City does not provide this notice.

**City Needs to Develop and Maintain an Accurate List of Employees with CDLs**

49CFR requires an employer to ensure that all operators of commercial vehicles have an equal chance for selection when any random test is conducted. We found that there is no assurance that the list of CDL employees maintained by HR is accurate. As such, the potential exists for employees or contract workers to be excluded from the selection process. During our review, we found at least 44 CDL employees who were not on the HR list. Without appearing on this list, these employees have no chance of being selected for the random testing.

**City Needs to Maintain Documentation of Alcohol and Controlled Substances Process**

49CFR requires an employer to maintain sufficient records of its alcohol and controlled substances use prevention programs. All records are to be maintained in a secure location with controlled access. Documentation includes records relating to the selection process as well as records related to the education and training of supervisors and drivers. Various other records are also required to be kept according to a retention schedule set out in 49CFR, Part 382, Subpart D. We found little assurance that the appropriate records will be maintained in the manner required. For example, if an employee was selected but not available the day of testing, there is no record of who reported that the employee was not working. As well, documentation is not generated to evidence any follow-up inquiries with Payroll to verify that the employee did not work on that day.

### **Testing for Alcohol Misuse Needs to Comply with Federal Requirements**

49CFR, Part 382, outlines the process to be followed when conducting random tests for alcohol. Each year the Federal Highway Administration sets out the minimum annual rate for alcohol testing after a determination of the percentage of non-compliance found during testing the previous year. For each year since 1998, the minimum percentage rate has been set at 10 percent.

However, we found that HR does not test at this rate nor is the sample size based on the 25 percent rate that was in effect prior to 1998. For example, 59 employees were tested in 2001, on a random basis, for alcohol. According to the December 2001 list submitted by HR there were approximately 212 employees with a CDL. This sample size equates to a percentage of 29.5 percent. We found no documentation that indicated that the amount selected for testing was based on any substantiated basis such as an unusual amount of positive test results in prior testing. According to the individual who schedules the testing, there have been no positive test results in the last two years.

In addition to concerns with the population size, we found that HR does not spread the test reasonably throughout the year to ensure that each driver has an equal chance of selection. For 2001, all alcohol testing was conducted in April while all alcohol testing for 2000 was completed in November. Moreover, the testing date for both years fell on a Tuesday, effectively eliminating anyone who was routinely scheduled off that particular day of the week.

### **Testing for Controlled Substances Use Needs to Comply with Federal Requirements**

49CFR also sets out the minimum percentage for controlled substances random tests. While the percentage can change, it has remained at 50 percent since 1994. Testing dates are to be reasonably spread throughout the year and the testing methodology must ensure that each driver has an equal chance of being tested each time selections are made.

We found, however, that HR does not have an established process that complies with 49CFR. For example, in 2000, 159 tests were conducted, a sample rate of close to 75 percent. In 2001, 110 tests were conducted, equating to a percentage of 52 percent.

We also found concerns with the timing of the tests. In 2000, all random testing was completed in the last seven months of the calendar year and four out of five days fell on a Tuesday. In 2001, while testing occurred on three separate days, only two actual samples were pulled. This happened because the vendor arrived late and was not able to test the individuals listed. When a

follow-up date was arranged, the remaining people identified for the previous test were tested instead of pulling a new sample. Similar to what was found in 2000, two out of three sample dates fell on a Tuesday.

***Procedures Need to Be Developed to Ensure that Post-Accident Testing is Completed***

Staff from Risk respond to the scene when an employee is involved in an accident while conducting City business. According to staff, if the person is a CDL employee and the accident meets the criteria set out in the federal regulations, the employee's supervisor is advised to take the driver for alcohol and controlled substances testing.

However, according to Risk staff, HR is not notified that a supervisor was instructed to take an employee for testing. As a result, there would be no way for HR to know that test results should be expected. Moreover, Risk does not follow-up to make sure that the employee was tested within a reasonable amount of time.

***Substance Abuse Training Program Needs to Be Implemented***

49CFR requires an employer to ensure that each person, designated to supervise operators of commercial vehicles, receives at least 60 minutes of training on alcohol misuse and another 60 minutes of training on controlled substances abuse.

In the later part of 1994, the City required every driver with a CDL and their supervisor to attend a training program developed to provide materials related to the federal regulations and the City's policy. Additionally, an HR Brief was developed in January 1995 that outlined supervisor requirements and the employee's responsibility. According to this Brief, each supervisor is to complete two hours of training and each employee is required to complete one hour of training.

We found that the City has not offered the training program since the initial undertaking. However, Risk has a series of tapes that can be used to help an employee prepare for the CDL testing. Also HR sends notices of training opportunities, available through outside vendors, to supervisors when something comes to their attention.

We noted that the HR Brief (in addition to being outdated) does not address the need for periodic re-training. While this is not a requirement of the federal regulations, the City could elect to require supervisors and drivers to periodically attend a refresher course.

***Records Need to Be Maintained in a Secure Manner  
with Controlled Access***

All records relating to an employer's alcohol misuse and controlled substances use prevention program are considered confidential information. As such, the records need to be maintained in a secure manner with controlled access. As well, the information needs to be maintained according to a set retention policy.

We found that there is little assurance that all records will be maintained in a secure, controlled manner. As discussed earlier, information on previous test results is kept on a staff person's desk. Other records are kept in file cabinets that are accessible by every employee in HR.

We also found that there are no procedures that outline the records that are required to be kept and nothing that discusses how the records are to be filed. Moreover, there is no record retention policy that lists the records created, the length of retention, and the method that will be used to destroy the documents once the retention period passes.



## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The scope is limited to addressing compliance with federal regulations governing the operation of commercial vehicles. A specific objective of this audit report section was to determine City compliance with the Code of Federal Regulations, Title 49 Chapter III, Parts 382, 383, 390, and 391. These regulations are promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration in an effort to reduce or prevent accidents, injuries, and fatalities associated with the operation of commercial vehicles. This report is limited to issues related to these regulations.

The initial stage of our audit consisted of the survey phase. The survey phase of an audit is designed to obtain a sufficient understanding of the subject matter and the related internal control environment to properly plan fieldwork. During the survey phase, we conducted interviews and tests to assess the reliability of internal controls over the administration of employees with a CDL. Information obtained in the survey phase served as a basis upon which fieldwork testing was determined.

Audit work was conducted in accordance with generally accepted government auditing standards as they relate to expanded scope auditing as required by Article III, Scottsdale Revised Code §2-117 *et seq.*

During the survey phase, we accessed and reviewed statutory requirements imposed on employers of drivers who operate a commercial vehicle. We accessed the Arizona State Legislature website to review Title 28 of the Arizona Revised Statutes, which deals with transportation. We also accessed and reviewed 49CFR Chapter III, Parts 382, 383, 390, and 391 as contained on the FMCSA portion of the U.S. Department of Transportation's website. The purpose of these reviews was to identify required actions and criteria imposed on CDL employers.

In addition, we interviewed City staff involved with the hiring, oversight, management, and tracking of CDL employees. We interviewed HR staff and obtained information on the hiring and testing of CDL employees. We interviewed staff in Risk and obtained information on processes involving driving record reviews and medical certification of CDL employees. We also interviewed a Senior Water Service Worker who was identified as the custodian of some CDL employee records. The interviews were designed to obtain insight into the policies, procedures, practices, and available documentation generated in administering activities related to compliance with applicable statutory requirements. We reviewed documentation provided or referenced by the personnel that were interviewed to assess its impact on our work. This documentation included policies and procedures, as well as, HR

Briefs that were offered as further insight into the administration of CDL employees. We reviewed the nature of the CDL records maintained within the City and observed the level of security in place over those records. We followed up with City staff to obtain additional information when necessary.

## **Survey Tests**

The following tests were conducted during the survey phase of our audit.

### **Test #1**

**Objective:** To determine if the City of Scottsdale job application form for CDL positions complies with the requirements set out for CDL applications in 49CFR, Part 391.21.

**Method:** We accessed the City's Intranet site for HR and clicked on the "forms" link and then on the "standard application" link. The standard application was reviewed to determine whether or not it was formatted to require the information set out in the criteria.

**Criteria:** According to 49CFR, Part 391.21, a CDL employer's application must contain the following:

1. Name and address of the employing motor carrier.
2. Applicant's name, address, date of birth, and social security number.
3. Applicant's addresses for the previous 3 years.
4. Date application is submitted.
5. Issuing state, number, and expiration date of each unexpired CDL or permit issued to the applicant.
6. Applicant's experience in operating motor vehicles, including type of equipment which they have operated.
7. All applicant accidents during preceding 3 years, specifying the date, nature of each accident, and any fatalities or personal injuries it caused.
8. All applicant motor vehicle violations for the preceding 3 years (other than parking) for which applicant was convicted, forfeited bond, or collateral.
9. The facts and circumstances of any denial, revocation, or suspension, to the applicant, of any license, permit, or privilege to operate a motor vehicle, or a statement that no such denial, revocation, or suspension has occurred.
10. The names and addresses of employers for the previous 3 years, dates of employment, and reasons for leaving.

11. For applicants to operate a vehicle of 26,001 pounds or more, or a 16 passenger or more vehicle, or a vehicle used to transport hazardous materials, list employers (for whom the applicant operated commercial motor vehicles) for the 7 years preceding the 3-year information provided per item 10 above. Include dates of employment and reasons for leaving.
12. The following certification and signature line at the end of the application.

*This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.*

**Results:** The City application does not require any information to respond to items 3, 5, 7, 8, 9, and 11. Moreover, for items 6 and 10, although the application may result in an applicant responding in some degree to the 49CFR, Part 391.21, requirements, it does not specifically require that applicants provide all the needed information. The City application does not specify that CDL applicants must indicate the type of equipment they have operated or all employers for the previous three years, the dates of their employment, and their reasons for leaving.

The City application does contain a certification statement, but the statement does not include a phrase to indicate the person applying for the job completed the application as set out in item 12.

**Test #2:**

**Objective:** To determine the extent to which the City complies with the federal requirements requiring a drug policy related to CDL employees.

**Method:** The 49CFR regulation requiring a drug policy was reviewed and summarized. The City's drug policy was obtained and the two policies were compared to determine the extent to which the City policy meets the federal requirements.

**Criteria:** According to 49CFR, Part 382.601, materials on the misuse of alcohol and the use of controlled substances should be made available to CDL drivers and shall include detailed discussion of at least the following:

1. The identity of the person designated by the employer to answer driver questions about the materials.
2. The categories of drivers who are subject to the provisions of this part.
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part.
4. Specific information concerning driver conduct that is prohibited by this part.
5. The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing.
6. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures, and instructions.
7. The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part.
8. An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences.
9. The consequences to CDL employees of violations.
10. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

**Results:** The City Substance Abuse Policy does not fully address the requirements of items 6, 8, and 10. The City policy does address the remaining items to some degree.

**Test #3:**

**Objective:** To determine if there are any differences between the list of CDL employees maintained by HR and the CDL employee list maintained by Risk Management.

- Method:** We took the most recent HR list of CDL employees (dated December 2001) and copied it onto a blank Excel spreadsheet. We then deleted all the information except the first and last name of the CDL employee. We then copied the most recent Risk list of CDL employees (dated March 2002) and pasted it next to the HR information. We then deleted all information on the Risk list except for the first and last name of the CDL employee. We sorted the HR information in ascending order and the Risk list in ascending order and compared the lists.
- Criteria:** Although some differences may exist due to timing, the two lists should reasonably approximate each other.
- Results:** The CDL employees who appear on the Risk list but who do not appear on the HR list totaled 80 employees. There were five employees who appeared on the HR list but did not appear on the Risk list.

### Fieldwork Tests

The following tests were conducted during the Fieldwork phase of our audit.

#### Test #1:

**Objective:** To determine whether HR has documentation in the CDL employee medical files that evidence that the employee received the new hire physical and a pre-employment drug test in compliance with federal requirements imposed on employers of CDL drivers.

**Method:** Using a list of CDL employees provided by HR personnel, we made a judgment decision to select a sample of 20 of the employees for testing. We deleted all information on the list except the employee's name and department and then numbered each of the CDL employees as they appeared in the list. Based on this numbering, we determined that there were 212 CDL employees on the list, which was dated December 2001. Excel's random number generator was then used to randomly select 20 numbers between 1 and 212. These numbers were used to select 20 sample CDL employees whose position on the list corresponded to the randomly selected numbers. For each of the employees selected in the sample, we accessed their HR medical file and reviewed them to determine whether there was documentation to indicate that they had a

CDL related new hire physical and a CDL related pre-employment drug test.

**Criteria:** Per 49CFR, Part 382.301, an employer is required to perform a pre-employment drug test, which also screens for alcohol, for its CDL employees. The test is to be conducted prior to allowing the CDL employee to perform safety sensitive functions. In addition, 49CFR, Part 391.43, sets out requirements for the performance and the documenting of the CDL medical examination. This part contains an example of the forms that are to be completed substantially in accordance with the information. The example examination form includes an indication of whether the exam is for a “new certification” or for a “recertification.” In addition, this part contains an example of a medical certification that is to be completed to evidence that the driver passed the exam and any restrictions imposed on the driver.

**Results:** Each of the 20 employees in the sample had documents in their file that indicated they had a physical examination. However, the file contained no indication of the date the person obtained their CDL (whether they had it when hired or whether they obtained it after being hired by the City). As a result, we could not determine whether physical examinations were obtained as a prerequisite to performing CDL duties or only because the physical was a condition of the employee’s position. Further, the physical examination documents did not indicate that they were CDL specific. The examination documents did not contain any CDL references nor did they indicate whether the exam was for a “new certification” or for “recertification.” Additionally, the files did not contain a CDL medical certification as required.

As for the pre-employment drug testing, 9 of the 20 CDL employees sampled did not have documents in their medical file that indicated that they were drug tested at or about the time of the earliest medical examination in their file (since this would be an indication of a pre-employment drug test). While each of these employees had subsequent drug/alcohol testing documents in their file, we could not determine when these employees obtained their CDL. Therefore, we could not determine whether the employees had been drug and alcohol tested prior to their CDL employment.

**Test #2:**

**Objective:** To determine whether HR's record of random alcohol and control substances tests for CDL employees are supported by test documents.

**Method:** For this work the same sample of 20 CDL employees selected for Test #1 were used. HR personnel provided access to a three-ring binder, which contained their records of drug testing dates for CDL employees. The binder contained the names of the employees with the dates they took an alcohol test and/or the dates they took a controlled substances test. For each of the employees in the sample, we reviewed the binder and listed the dates that they had an alcohol and/or drug test during calendar years 2000 and 2001. These years were selected since they should provide a reflection of the current process.

After listing the random testing dates for each of the 20 CDL employees in the sample, we reviewed each individual's HR medical file (if they had a random alcohol or controlled substances test). During this review, we verified the presence of documentation that indicated the results of the alcohol or controlled substances test for the test dates indicated in the binder. We followed up with HR personnel to obtain explanations of any discrepancies or issues.

**Criteria:** To demonstrate that CDL employees are randomly tested for alcohol and controlled substances, as required by the 49CFR requirements, supporting documentation should be maintained.

**Results:** For the sample of 20 CDL employees, we found that three of them had no alcohol or controlled substances tests done during calendar year 2000 and 2001 according to the HR binder. Five of the employees selected in the sample had test dates that did not match the dates on which HR staff said the random tests took place. Prior to the test, HR staff said that the dates of the CDL random testing during calendar year 2000 and 2001 were as follows: June 6, 2000, July 10, 2000, September 5, 2000, November 14, 2000, December 5, 2000, April 3, 2001, October 30, 2001, and December 17, 2001. For one of the five employees, the testing documents indicated that it was a new hire test, therefore, was not part of the random testing process. HR staff indicated that for two of the remaining four employees test dates reflected follow-up random drug testing due to substance abuse issues. For the remaining two employees, HR

staff indicated the test was not related to CDL employment but was related to fire support personnel random testing.

In all, we originally determined that HR records indicated that for the 20 sample employees, there were 54 alcohol and controlled substances tests during calendar year 2000 and 2001. During testing and in follow-up conversations with HR staff, we found that 14 of the tests were not related to random CDL testing (i.e., they were tests related to fire support duties or substance abuse issues and one was for a new hire CDL test). This left 40 CDL related random alcohol and/or controlled substances tests during calendar years 2000 and 2001. We found documentation in the employees' medical files to evidence the results of all of these tests except for two controlled substances tests that were to have taken place on November 14, 2000. We found that neither of these two tests actually took place. One of them was an entry error in HR records and the other was an error on our part in listing that the test took place. As a result, there were 38 random alcohol and controlled substances tests done for the 20 randomly selected employees. We found supporting documentation for all of these tests in the employee's medical files.

During the process of collecting the information for this test, we noted that the HR binder indicated a date that the employees received training on alcohol and substance abuse testing. In reviewing these dates, we noted that four of our sample employees did not have a training date next to their name. HR staff confirmed that this meant they did not receive training on alcohol and substance abuse testing. In addition, we noted that two of the training dates occurred after the 1994/95 training that HR had told us about. HR staff said that training dates in the binder that are after the 1995 time period are most likely training that the employee's supervisor arranged on their own from an outside vendor. HR staff became aware that a vendor was providing alcohol and drug training and made the CDL supervisors aware of this. It was up to the supervisors to arrange and pay, from their department training budget, for the training. HR staff told us that the training was not CDL specific.



**Test #3:**

**Objective:** To determine whether Risk has evidence that 49CFR required driving record reviews are done and to determine whether Risk documentation evidences that the City complies with 49CFR requirements for CDL employees to obtain medical examinations every 24 months.

**Method:** Using the sample of 20 CDL employees selected for Test #1, we attempted to trace each employee in the sample to Risk documentation evidencing that they underwent a driving record review for each of the last two years (2001 and 2002). We also traced each employee in the sample to Risk documentation evidencing that they underwent a CDL medical examination within the last 24 months.

**Criteria:** Per 49CFR, 391.25 (a), at least once every 12 months employers are to inquire into its CDL employees' driving records for at least the preceding 12 months. The inquiry is required for each state where the drivers held a CDL or a CDL permit during that time. Per 49CFR, 391.25 (c), a copy of each state agency's response shall be maintained in the driver's qualification file. 49CFR, 391.25 (b), requires at least once every 12 months employers review their CDL employees' driving records to determine if they meet minimum requirements for safe driving or if they are disqualified to drive a commercial motor vehicle. Per 391.25 (2), a note including the name of the person who performed the driving record review and the date of the review shall be maintained in the driver's qualification file. In addition, 49CFR, 391.27, requires that at least once every 12 months employers obtain from CDL employees certification of their violations for the previous three years or a certification that they had none during that period. The list or certificate shall be retained in the driver's qualification file.

The date of the latest medical examination for each of these CDL drivers should not be older than 24 months, since 49CFR, 391.45, requires that CDL drivers be medically examined and certified every 24 months.

**Results:** Although we started with a sample of 20 CDL employees, we found that one of them was not on Risk's list of CDL employees. As a result, we excluded this employee from this review and worked with the remaining sample.

In reviewing the Risk files, we found that the driving records of the CDL employees were not maintained in any type of employee file. Instead, all the driving records obtained by Risk, for their review, were kept in one large bundle within a file folder. Although portions of the bundle were in alphabetical order, by driver, the alphabetical order was not consistently maintained throughout the bundle, making it cumbersome to locate the driving record for any specific CDL employee. We did, however, locate copies of driving records for 16 of the 19 employees for 2001 and 17 of the 19 employees for 2002. The missing driving records for each year were not for the same employees. As a result, of the 38 driving records that should have been pulled for the 19 employees, we located 33 of them. We found no specific documentation that evidenced the name of the Risk person who performed the driving record review or the date that the review took place. Likewise, there were no explanatory notes indicating the results of the driving record review or any follow-up performed to address concerns. We also found no documented statements from the CDL employees regarding their driving record for the previous three years.

The medical examination forms for the 19 employees in the sample were present in the employees' files. Each of these medical reports had a date within the last 24 months.

**Test #4:**

**Objective:** To determine whether employees, listed on Risk's list of CDL employees but not on HR's list of CDL employees, have any documentation which indicates they had a CDL medical certification or a recertification within the last two years. Such documentation would indicate that the employee should be tracked as a CDL employee.

**Method:** Risk staff provided access to a box of files that contained the medical records for City CDL employees. We took the list of the 80 employees, identified in survey testing as being on Risk's list of CDL employees but not on HR's list, and reviewed the Risk files to see whether there was an indication that the employees had a CDL new certification or recertification medical examination. We noted whether there was any such documentation in their file, and, if so, we recorded the most recent date of such documentation.

**Criteria:** The CDL lists maintained by HR and by Risk should reasonably approximate each other since they both purport to reflect the CDL employees within the City at any point in time.

**Results:** Of the 80 employees, we found that 75 of them had documentation in the Risk files that indicated they had a CDL related medical examination (5 of the 80 employees had no medical exam or certification documentation in their file). Of the 75 employees who had medical documentation, 3 had new medical certifications dated in 2002. These 3 CDL employees would not be reflected in the HR listing because of timing (the HR list was dated December 2001). An additional 2 employees had recertifications dated in 2002. These may not have been on the HR list due to timing depending on when they became a City employee. There were 4 of the 75 employees who had their most recent medical examination in the files dated in 1999 (3 new certifications and 1 recertification). These employees may no longer hold a CDL because 49CFR, 391.45, requires CDL drivers to get a medical exam and certification every 24 months, and the last record of certification in their file was 1999 (over 24 months ago). The remaining 66 employees had evidence of a new CDL exam or a recertifying CDL exam in their file that was dated in either 2000 or 2001. Of these 66 employees, 43 had evidence of new CDL medical certifications during this time period, while 21 had evidence they had CDL recertifications. The other 2 examination reports did not contain a check mark indicating whether they were new or recertifications.

**Test #5:**

**Objective:** To determine whether there are copies of CDLs for a sample of employees previously identified as being on the Risk's list of CDL employees but not on the HR list.

**Method:** From our list of 80 employees on Risk's list of CDL employees but not on HR's list, we judgmentally selected the first name and then the eighth name and then every eighth name thereafter. Eleven total CDL employees were selected for the test. The files of a Senior Water Service Worker who maintains records on CDL employees were accessed and reviewed to determine whether they contained a copy of the CDLs of the selected employees.

**Criteria:** If the person has a CDL, they should be tracked on the HR list of CDL employees so that they can be included in the random alcohol and controlled substances testing done on CDL employees.

**Results:** Of the 11 employees reviewed, 5 had copies of their CDLs in the files. The other 6 did not have a copy of their CDL in the files. The Senior Water Service Worker explained that some people get the medical certification, which is the indication that they will be getting a CDL, but then find that there are ongoing requirements for the CDL like medical recertifications and initial and random drug testing. As a result, he said that some employees do not follow through and get their CDL. He said that the lack of a CDL copy in the file might also mean that he has not received it from the employee's supervisor. When he becomes aware of a CDL employee he sends the employee's supervisor an e-mail requesting a copy of the CDL. He becomes aware of which employees in his files do not have a CDL copy by reviewing the Risk list of CDL employees.

**Test #6:**

**Objective:** To determine if the 80 employees on Risk's list of CDL employees but not on HR's list, perform CDL duties as part of their City responsibilities.

**Method:** For the 80 employees previously identified as appearing on Risk's list of CDL employees but not on HR's list, we obtained the names of their supervisors from HR. Each of the supervisors were telephoned and asked if the employees perform CDL functions as part of their City responsibilities.

**Criteria:** Employees who perform CDL functions as part of their City responsibilities should be tracked on the HR list of CDL employees so that they can be included in the random alcohol and controlled substances testing done on CDL employees.

**Results:** We found that 22 of the 80 employees were no longer with the City. Supervisors of 10 of the 80 employees said that the employees were not performing CDL functions. Supervisors for 2 of the 80 employees could not be reached during the time this work was done. Supervisors for 46 of the 80 employees said that CDL functions were part of the employees' responsibilities.

## APPENDIX A MANAGEMENT RESPONSE



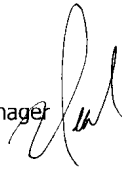
### Human Resources

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September 5, 2002

TO: Cheryl Barcala, City Auditor

FROM: Neal Shearer, Human Resources General Manager 

SUBJECT: Management Response - CDL Audit #0161C

Thank you for this comprehensive audit and the road map to improvement that it provides to address compliance issues regarding commercial driving licenses and substance abuse testing. Such programs provide critical safeguards to protect our citizens and employees and the Human Resources department is fully committed to implementing all audit recommendations, as outlined in our action plan (enclosed).

HR looks forward to working with Risk Management and other key areas of the organization to not only ensure legal compliance, but to improve overall coordination, communication and consistency. While HR has already made initial staffing assignments to implement the action plan, we will assess and address ongoing staffing or resource implications on an annual basis.

I also want to thank you for focusing attention on the complex issue of privacy in the work place. While some of the concerns regarding the over utilization of social security numbers will be largely resolved with enhancements to the payroll system in the coming year, there are other privacy or confidentiality issues that Human Resources needs to better understand and address, consistent with the guidance and direction of the City Manager and the Legal department.



## APPENDIX B MANAGEMENT RESPONSE



**RISK MANAGEMENT DIVISION**

7447 E. INDIAN SCHOOL RD.  
SUITE 225  
SCOTTSDALE, AZ 85251

(480) 312-2490  
(480) 312-4232 FAX

Date: 9/5/02

To: Cheryl Barcala – City Auditor  
Fr: Myron Kuklok – Risk Management Director

Re: Risk Management Division (Risk) Response to CDL Audit Report No.  
0161C

We have reviewed subject audit report and Risk generally agrees and concurs with the recommendations for improvement directed to Risk.

Please refer to the specific responses to each Risk recommendation contained in the action plan.

Signed

A handwritten signature in black ink, appearing to read "Myron J. Kuklok".

Myron J. Kuklok  
Risk Management Director